

CHECKLIST OF CONSIDERATIONS FOR LOAN DOCUMENTS

- G Does the loan document bind the borrower to comply with CERCLA/ NCP/ terms & conditions of the Cooperative Agreement? Does the loan document contain specific reference to compliance with Cross Cutting Requirements and Davis Bacon.
- G Does the loan document appear to allow expenditure/activities that would not be allowable RLF costs (e.g. “development”, cleanup of non-hazardous substances)? If so, loan document should clarify that BCRLF funds cannot be used to cover such expenditure/activities?
- G Does the loan document reflect that the borrower must modify cleanup plan if lead agency determines it is necessary to do so based on public comment (if applicable) or new information?
- G Can lead agency gain access to the site without site owner’s approval? If not, does the loan document require the borrower to ensure lead agency will have access?
- G Will the loan be made before the lead agency has signed cleanup decision document (e.g. action memo)? If so, does the loan document reflect that the loan is conditioned upon completion of the decision document as well as all steps prior to that (e.g. EE/CA, public comment etc.)
- G Does the loan document reflect the 12 month limit on all cleanup activities?
- G Does the loan document reflect the proper balance of power between the lead agency and the borrower regarding cleanup decisions (e.g; borrower’s ability to make changes, lead agency responsibility for final decisions, etc.)? Is the lead agency also the lender? If not, does the loan document reflect this distinction?
- G Definitions of terms which are also defined in CERCLA or the NCP (e.g. “Hazardous substance,” “removal,” etc.) should be exactly the same as the CERCLA/NCP definitions.
- G Loan documents based on standard construction loans should be carefully reviewed to ensure that standard terms do not conflict with RLF requirements - e.g. use of term “remediation,” delay for causes beyond control of party, “cure” provisions, etc.
- G If sampling and analysis will be conducted as part of the BCRLF response, does the loan document make clear to the borrower that the lead agency will have to submit a Quality Assurance Project Plan to EPA for approval prior to the initiation of any field work?
- G If the borrower is going to assist the lead agency by drafting a health & safety plan, does the loan document require the borrower to submit a draft health & safety plan to the lead agency?
- G Does the loan document require the borrower to document the use of all funds, to maintain documentation for a minimum of 10 years after the completion of the cleanup activity and obtain written approval from the lead agency prior to destroying any records? NOTE: Cooperative Agreement recipients must obtain written approval from EPA prior to destroying, or approving the destruction of, any records.

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